

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1548 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

G.G. PARGI

Versus

DIRECTOR OF EMPLOYMENT & TRAINING

Appearance:

MR MANOJ N POPAT for Petitioner

Mr KT DAVE i/b M/S PATEL ADVOCATES for Respondent

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/06/2000

ORAL JUDGEMENT

In this petition under Articles 226 and 227 of the Constitution, the petitioner has challenged the order dated 24.9.1987 dismissing the petitioner from service, as confirmed by the judgment and order dated 19.2.1988 passed by the Gujarat Civil Services Tribunal in Appeal No. 471/87.

2. The charge levelled against the petitioner was that he had abused his official position of Research Assistant in the Office of the Employment Exchange in Sabarkantha District. The charge against the petitioner

was two fold. The Employment Exchange Office had received a requisition for the post of a Driver as per the indent received from the Medical Officer, Referral Hospital, Halol. The Employment Officer had prepared a list of 10 candidates. The said list was returned by the Medical Officer as there were 11 names as against 10 names originally sent. The name of one Patel Dilipkumar Purshottamdas at Sr.No. 5 was found to be an interpolation. The registration number mentioned against Patel Dilipkumar was 7598/79 which was the registration number of Abhabhai M. Bariya whose name had already been struck off from the records. Patel Dilipkumar was not due for being recommended for the post advertised. The list returned by the Medical Officer was sent under the signature of the petitioner who was not authorized to select names for recommendation and send them to the Indenting Officer under his signature.

Similarly, when the Assistant Executive Engineer, Central Flood Forecast Sub Division, Divada Colony had requested for a list of candidates for appointment to the post of Workcharge Khalasi, the District Employment Officer sent a list of 20 names on 7.2.1985 but when the Assistant Executive Engineer returned a copy of the list, it was found that there were 21 names. The name of Pathak Narendrakumar at Sr.No. 21 was an interpolation. The said person was not due for recommendation.

The petitioner was charged with the aforesaid two acts of misconduct.

In reply to the charge-sheet, the petitioner tried to explain the insertion of the name of Patel Dilipkumar Purshottamdas saying that he was a person from his village, but there was no dispute regarding the fact that the name of Patel Dilipkumar Purshottamdas was added by him. He did not even give explanation for the insertion of additional name in the other case. The petitioner was found guilty of the charges levelled against him and was dismissed from service.

In his appeal before the Tribunal, the only contention urged was regarding the quantum of punishment.

After hearing the parties, the Tribunal found that the penalty imposed was not disproportionate to the charges found to have been proved against the petitioner. It is against the aforesaid order of dismissal as confirmed by the Tribunal that the petitioner has filed this petition.

3. At the hearing of the petition, Mr Manoj Popat, learned counsel for the petitioner submitted that the petitioner was persuaded that lighter punishment could be imposed if he confessed the misconduct. It is, therefore, submitted that the order of dismissal deserves to be quashed as it was vitiated by plea bargaining.

4. A perusal of the order of the Tribunal clearly reveals that such a contention was never raised earlier. The petitioner was represented by an advocate before the Tribunal and the order of the Tribunal clearly indicates that the petitioner had even admitted the misconduct at the hearing of the appeal before the Tribunal as the matter was argued by the petitioner's advocate in presence of the petitioner and at that time also the petitioner's advocate had stated that the petitioner had confessed the misconduct and the appeal was being argued only on the quantum of punishment.

In the affidavit in reply filed on behalf of the respondent also it is pointed out that such a contention was never raised earlier and that the petitioner had abused his position to oblige known persons in recommending their names against the laid down principles of the department and had prepared the lists. It is thus clear that the contention about plea bargaining is an after thought.

5. The petitioner having admitted his misconduct, no fault can be found with the authorities in holding the petitioner guilty of serious misconduct of interpolation in the lists of candidates sent from the Employment Exchange Office. Looking to the grave nature of the misconduct, the punishment of dismissal cannot be said to be disproportionate. There is no substance in the petition.

The petition is, therefore, dismissed. Rule is discharged. There shall be no order as to costs.

June 16, 2000 (M.S. Shah, J.)
sundar/-